

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of J.M.P., Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

GERALD MICHAEL POE, JR.,

Respondent-Appellant,

and

THEODORA PHELPS,

Respondent.

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UNPUBLISHED

May 1, 2007

No. 274317

Wayne Circuit Court

Family Division

LC No. 05-445145-NA

Before: Cavanagh, P.J., and Jansen and Borrello, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(a)(ii).<sup>1</sup> We affirm.

Respondent-appellant raises a number of arguments in his appellate brief, including that the trial court erred in finding that he was the child's father. However, the paternity act creates a presumption of paternity where blood tests indicate the probability at 99 percent or greater. MCL 722.716(5). The lower court record contains a genetic test, which shows that there was a 99.99% probability that respondent-appellant was Jeremiah's father. Because respondent-appellant was unable to produce evidence to overcome the presumption of paternity, his claim

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<sup>1</sup> We note that respondent-appellant maintains that the trial court also relied on MCL 712A.19b(3)(c)(i), (g), and (j) to terminate his parental rights. However, after reviewing the trial court's decision, we find that the trial court relied on those subsections only to terminate the mother's parental rights.

has no merit. Respondent-appellant also argues that no services were provided to help him understand that, based on the DNA results, Jeremiah had to be his child. However, the record clearly shows that the trial court explained to respondent-appellant, at the dispositional review hearing, that the DNA test was presumed to be right.

Respondent-appellant next contends that the trial court clearly erred in finding that his continuous denial of paternity constituted abandonment, pursuant to MCL 712A.19b(3)(a)(ii). The termination of parental rights is appropriate where petitioner proves by clear and convincing evidence at least one ground for termination. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). This Court reviews the trial court's findings under the clearly erroneous standard. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Respondent-appellant testified at the termination that, because Jeremiah was not his son, he had no plans for caring for him. The caseworker testified that respondent-appellant had never visited the two-year-old child and had never provided any financial support. Such evidence establishes that a period of more than 91 days passed where respondent-appellant did not visit the child, support the child, or seek custody of the child. Thus, the trial court did not clearly err in terminating his parental rights pursuant to MCL 712A.19b(3)(a)(ii).

Respondent-appellant next contends that the trial court erred in terminating his parental rights because petitioner did not provide him with services in an effort to reunite the child with him. The caseworker testified that she contacted respondent-appellant and told him that the DNA test proved that he was the child's father. Respondent-appellant told the caseworker that he could not be the child's father, that he was not willing to plan for the child, and that he did not want to participate in services. Given that the caseworker explained to respondent-appellant that the DNA test proved that he was the child's father and that respondent-appellant denied services offered by petitioner, we find that respondent-appellant's argument lacks merit.

Finally, because respondent-appellant had no bond with the child, had never paid child support, and had failed to work with petitioner toward reunification of the family, the evidence did not show that termination of his parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, *supra* at 355-357. Therefore, the trial court did not err in terminating his parental rights.

Affirmed.

/s/ Mark J. Cavanagh  
/s/ Kathleen Jansen  
/s/ Stephen L. Borrello